May 29, 2012

Eastern Rural Telecom Association

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

RE: Notice of Ex Parte –
Connect America Fund, WC Docket No. 10-90; A National Broadband Plan for Our Future, GN Docket No. 09-51; Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135; High-Cost Universal Service Support, WC Docket No. 05-337; Developing an Unified Intercarrier Compensation Regime, CC Docket No. 01-92; Federal-State Board on Universal Service, CC Docket No. 96-45

Dear Ms. Dortch:

On May 24, 2012 Darby McCarty of Smithville Telephone Company, Desda Passarella Hutchins of Loretto Telephone, Trey Judy representing Bluffton Telephone, Inc. and Hargray Telephone Company, Inc., Craig Smith of MGW Communications, and Jerry Weikle of Weikle & Co met with Michael Steffen of Chairman Julius Genachowski's office and with Sharon Gillett, Carol Mattey, Travis Litman, Steve Rosenberg, and Victoria Goldberg of the Wireline Competition Bureau.

ERTA stated that there is uncertainty being driven by the adoption of the regression analysis model and that a delay of the effective date, or total elimination of the model, would allow time to better understand the true impact of other changes that have been made and to make further improvements to the model. Instead of allowing companies to move forward with capital or operating expenditures to serve customers with new services or repair network issues, this uncertainty has resulted in a management by fear situation where decisions are not being made due to concern about causing a loss of customer cost support in the future because of the unknowns about the outcome of the regression model several years from now.

In terms of short term modifications absent a delay in implementation, ERTA suggested combining the operating and capital expenditure benchmarks into a single benchmark or allowing flexibility to exceed one if a company's expenditures were below the other benchmark by an equal or greater amount. Companies need flexibility to manage their operations to provide service to customers. The impact of separate caps is to force all companies to operate along a one size fits all track regardless of whether that regulation makes sense for their particular circumstances and customer base. Companies with unique circumstances need to be able to operate in a way that makes sense for them and not be penalized for having a different capital vs. expense structure than "similarly situated" carriers.

ERTA also described how withholding recycled support from any carrier that exceeds one ofthe model benchmarks also creates a disincentive to invest, which runs counter to the stated goals of the National Broadband Plan. Under the proposed plan high cost support payment reductions resulting from regression based limits would reduce the need for USAC to artificially inflate the nationwide average loop cost in order not to exceed the annual cap thus creating recycled support, which in reality is merely support closer to the amount originally intended by high cost loop support rules. The proposed plan, however, excludes carriers whose costs exceed either the capital or operating expenditure benchmark from receiving this recycled support. Therefore, companies who believe they are at or near one of the benchmarks will be incented to reduce their expenditures to get below that benchmark so they can receive recycled support. This unintended impact of the proposed rules actually creates a disincentive toward investment rather than merely reducing incentives.

In response to a WCB question about whether simply eliminating recycled support entirely would eliminate the disincentive, ERTA indicated that it would, but that would be akin to cutting off your foot because of an injured toe. Not only would it remove the disincentive for companies believed to be near a benchmark, it would impair companies' ability to make the expenditures necessary to maintain their existing broadband networks. Regression should not create disincentives for investment by penalizing companies in the form of withheld recycled support nor should it remove support required to maintain existing networks in high cost areas.

In addition to the above, ERTA also discussed some items found on the attached handout.

If there are any questions, I can be reached at 704.782.7738.

Sincerely,

/s/ *Jerry Weikle*

Jerry Weikle
Regulatory Consultant

cc: Michael Steffen
Sharon Gillett
Carol Mattey
Travis Litman
Steve Rosenberg
Victoria Goldberg

Eastern Rural Telecom Association

Rural Community Harms Caused by Regression Analysis

The Eastern Rural Telecom Association ("ERTA") is a membership organization made up of local exchange companies ("LECs") and support companies that provide telecommunications services to rural customers in the Eastern half of America. ERTA members operate small, community based businesses that are based on a philosophy of neighbors serving neighbors in rural areas.

> "Because it is impossible to anticipate the effect of every rule or every result of innovation, it is prudent to reevaluate rules and data collections in light of new information and circumstances." Final Plan for Retrospective Analysis of Existing Rules released by the FCC (May 18, 2012) p. 2.

The FCC's Report and Order in WC Docket Nos. 10-90, etc., FCC Release No. 11-161 (November 18, 2011) and subsequent Orders have caused the unintended consequences of harming rural consumers and communities by allowing uncertainty to continue for companies that provide voice and broadband services. Instead of being innovative and looking for creative solutions, these companies have battened down the hatches.

Specifically, the FCC's Quantile Regression Analysis stifles planning for the future and:

- Results in a "management by fear" culture of service where employees are fearful of losing their job because of retroactive rate making and reduced support revenues.

- Rewards a "do nothing" investment approach instead of an "out of the box" approach seeking creative solutions and network improvements to serve customers.

- Causes fear and uncertainty in employees because the wrong decision to spend capital or expense dollars could cost their company much needed Universal Service Support.

- Results in a downturn in broadband network equipment spending after current broadband stimulus projects are finished.

- Causes uncertainty for companies making business decisions required to provide service to customers in high cost areas when revenues do not meet costs.

- Results in reduced service quality and service response times to cope with uncertain and less than predictable support in high cost areas.

- Prevents companies from recovering the established lawful investments and operating expenses incurred to provide universal service.

ERTA asks the FCC to not impose Regression Analysis effective July 1. Instead allow time to understand the impacts of other major modifications and then act accordingly.

ERTA asks the FCC to not impose further change contemplated in the FNPRM portion of its Federal Communications Commission Report and Order in WC Docket Nos. 10-90, etc., FCC Release No. 11-161 (November 18, 2011). Instead allow time to understand the impacts of other major modifications and then act accordingly.